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Identical letters dated 9 November 2007 from the Permanent Representative of the Islamic Republic of Iran to the United Nations addressed to the Secretary-General and the President of the Security Council

Upon instructions from my Government, and with regard to certain baseless Israeli allegations against the Islamic Republic of Iran contained in the most recent report of the Secretary-General on the implementation of Security Council resolution 1701 (2006) (S/2007/641), I wish to state that the Islamic Republic of Iran categorically rejects the said allegations concerning the so-called "transfer of weaponry" to Lebanon, which are based on false and misleading information provided by the Zionist regime.

Undoubtedly, the Israeli regime, which has violated various provisions of resolution 1701 (2006) as indicated in the said report, has no credibility to level such baseless allegations against others. Therefore, the United Nations should avoid reflecting in its reports such groundless allegations that the Israeli regime fabricates in order to distract the international community's attention from the atrocities it has committed against the peoples in the region.

As I mentioned in my previous letter, Iran has been, and will remain, resolute in its support for stability and security in Lebanon.

I would be grateful if you could arrange for the present letter to be circulated as a document of the Security Council.

(*Signed*) Mohammad **Khazaee**
Ambassador
Permanent Representative

07-59209 (E) 121107

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Security Council

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12 November 2007
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Letter dated 12 November 2007 from the President of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, addressed to the President of the Security Council

I am pleased to transmit herewith the assessments of the President (see annex I) and of the Prosecutor (see annex II) of the International Tribunal for the Former Yugoslavia, pursuant to paragraph 6 of Security Council resolution 1534 (2004).

I should be grateful if you would transmit these assessments to the members of the Security Council.

(*Signed*) Fausto **Pocar**
President

07-59441 (E) 301107

Annex I

Assessment and report of Judge Fausto Pocar, President of the International Tribunal for the Former Yugoslavia, provided to the Security Council pursuant to paragraph 6 of Council Resolution 1534 (2004)

1. This report is submitted pursuant to Security Council resolution 1534 (2004) adopted on 26 March 2004 in which the Council, in paragraph 6 of the resolution, requested the International Tribunal for the Former Yugoslavia ("International Tribunal") "to provide to the Council, by 31 May 2004 and every six months thereafter, assessments by its President and Prosecutor, setting out in detail the progress made towards implementation of the Completion Strategy of the Tribunal, explaining what measures have been taken to implement the Completion Strategy and what measures remain to be taken, including the transfer of cases involving intermediate and lower rank accused to competent national jurisdictions".[1]

I. Introduction

2. Out of the 161 accused indicted by the International Tribunal, only 11 accused remain in the pre-trial stage awaiting the commencement of their trials and a further four accused are still at large. A total of 27 accused are presently in the course of trial (a record number) and another eight have appeals pending. All other cases have been completed. It is presently estimated that, with the exception of two recently arrived accused, all trials will be completed by the end of 2009. The Trials of the two recent arrivals are estimated to finish early in 2010. All appeals are presently estimated to be concluded during 2011. That estimate is subject to a number of factors that can impinge on the expeditious completion of trials and appeals such as illness of the accused, or Counsel, failure of witnesses to appear and other unforeseen circumstances.

3. The three Trial Chambers of the International Tribunal continued throughout the reporting period to operate at record capacity hearing seven trials, simultaneously with two separate sittings in each of the International Tribunal's three courtrooms from early morning into the evening. The seventh trial takes advantage of the inevitable gaps in the scheduling of the six other cases due to a number of factors that cause unforeseen delays in trials, including those identified above. To expedite the hearing of trials, two of the Chambers hearing cases against multi-accused held additional hearings during the three weeks summer recess period taking advantage of the extended availability of the International Tribunals' three courtrooms at that time. Additionally, taking advantage of

[1] The present report should be read in conjunction with the previous seven reports submitted pursuant to Security Council resolution 1534(2004): S/2004/420 of 24 May 2004; S/2004/897 of 23 November 2004; S/2005/343 of 25 May 2005; S/2005/781 of 14 December 2005; S/2006/353 of 31 May 2006; S/2006/898 of 16 November 2006 and S/2007/283 of 16 May 2007.

the fact that one of the trials entered into the judgement drafting phase, the International Tribunal was able to start an eighth trial.

4. The following eight cases are simultaneously in trial phase: *Prlić, Stojić, Praljak, Petković, Ćorić and Pušić; Milutinović, Sainović, Ojdanić, Pavković, Lazarević and Lukić; Popović, Beara, Nikolić, Borovčanin, Miletić, Gvero and Pandurević; D. Milosević; Haradinaj, Brahimaj and Balaj; Boškoski and Tarčulovski; Delić;* and *Šešelj*. In addition, judgements were issued in the *Martić* case on 12 June 2007 and in the *Mrksić, Radić and Šljivančanin* case on 27 September 2007.

5. There was no contempt case heard in the reporting period.

6. During this period, Trial Chamber Judges also managed nine cases in the pre-trial stage, leading to the issuance of 181 written decisions and 35 oral decisions on such matters as the form of the indictment, challenges to jurisdiction, disclosure of evidence, protective measures for victims and witnesses, provisional release, adjudicated facts and the admissibility of witness statements under Rule 92*bis* of the Rules.

7. The Appeals Chamber continued to increase its productivity in relation to both the International Tribunal and the International Tribunal for Rwanda ("ICTR"). It rendered 103 written decisions, including thirteen interlocutory appeal decisions; two referral decisions; 81 pre-appeal decisions; and seven other decisions since the last report.[2] It rendered Judgment in four appeals leaving a total of only 10 appeals currently pending.[3] The Appeals Chamber anticipates rendering judgment in two of these appeals this month.

8. Currently, only eleven accused in seven cases remain awaiting the commencement of their trial before the International Tribunal. This is despite the addition of four accused in three new cases. Two of these new cases result from the arrests of the fugitives Tolimir and Đorđević. Both these fugitives had been indicted in multi-accused cases, which commenced over twelve months ago. Had these fugitives been arrested at an earlier time, they could have been tried together with their co-accused. Unfortunately, their late arrest means that their fair trial rights can only be accommodated in separate trials. Of the accused awaiting trial, six have been provisionally released until their trials can commence (Ivan Čermak, Mladen Markač, Franko Simatović, Jovica Stanišić, Momčilo Perišić and Mićo Stanišić).[4]

9. As mentioned in the last two reports to the Council, the International Tribunal continues to seek additional avenues for the transfer of convicted persons from the United Nations Detention Unit ("UNDU") to States for the enforcement of their sentence.

[2] *See* Enclosures VI, VIII.

[3] *See* Enclosure VII.

[4] *See* Enclosure IV.

Although there were no new transfers over the reporting period, an agreement on enforcement of sentences was signed with Ukraine on 7 August 2007. Ukraine is the twelfth State to enter into an enforcement of sentences agreement with the International Tribunal.

II. Measures Taken to Implement the Completion Strategy

A. Trial and Appeal Proceedings

10. The last six reports to the Security Council identified concrete measures adopted by the International Tribunal to ensure the timely implementation of the Completion Strategy. Most of the measures adopted under my Presidency resulted from an in-depth analysis of trial and appeal practices carried out by the Working Groups on Speeding up Appeals and Trials. The recommendations of these Working Groups for improving the efficiency of proceedings have been fully embraced by the Judges, and have had a marked impact upon the expedition of proceedings at the International Tribunal. To illustrate fully the impact of concrete measures adopted, a synopsis of their application to trials and appeals currently pending completion before the International Tribunal are detailed below.

11. In the case of *D. Milošević*, the accused is charged with seven counts of crimes against humanity and violations of the laws or customs of war allegedly committed in 1994-1995. The trial commenced on 10 January 2007. Closing arguments were heard on 8 and 9 October 2007. It is estimated that the judgement will be rendered by the end of December 2007. The original estimate for the completion of the trial in November 2007 should be respected. Prior to the commencement of trial, the Trial Chamber issued a decision reducing the Indictment by one-third. During the case, 58 witnesses testified pursuant to Rules 92 *bis* and 92 *ter*. During the Prosecution case, the Trial Chamber took judicial notice of 21 documents pursuant to Rule 94 (B). In addition, the Prosecution and the Defence applied for the admission of 130 adjudicated facts from the *Galić* case by way of judicial notice; these requests were granted.

12. In the multi-accused case of *Prlić et al.*, the six accused are charged with 26 counts of war crimes and crimes against humanity related to approximately 70 crimes sites allegedly committed by Bosnian Croats against Bosnian Muslims in Bosnia and Herzegovina in the period of 18 November 1991 to about April 1994. The trial opened on 26 April 2006, with an estimated trial time not exceeding three years. The Chamber held a hearing during the summer recess. On 27 September 2007, the Trial Chamber issued a scheduling order which calls for the Prosecution to complete the presentation of its evidence by 13 December 2007. Oral arguments under Rule 98 *bis* are to be presented between 7 and 16 January 2008.

13. In the multi-accused case of *Milutinović et al.*, the six accused are charged with five counts of war crimes and crimes against humanity allegedly committed by Serbian

forces in 15 municipalities of Kosovo in the period of 1 January to 20 June 1999. The Prosecution case closed within the prescribed time on 1 May 2007. The Trial Chamber restricted the time allowed for the presentation of the Defence case pursuant to Rule 73 *ter*, as it had previously done under Rule 73 *bis* with respect to the presentation of the Prosecution case. The Defence case started in August 2007 and the Trial Chamber held sessions during the summer recess between 6 and 17 August 2007. The Defence case is expected to close in March 2008.

14. In the case of *Šešelj*, the accused is charged with fourteen counts of crimes against humanity and violations of the laws or customs of war allegedly committed in the territory of Croatia, in large parts of Bosnia and Herzegovina and in Vojvodina (Serbia), from August 1991 until September 1993. The case was returned to pre-trial following an Appeals Chamber decision to allow the Accused to represent himself. The Pre-Trial Conference was held on 6 November 2007, and opening statements were made on 7 and 8 November 2007. The first Prosecution witness will be called on 11 December 2007.

15. In the multi-accused case of *Popović et al.*, the seven accused are charged with eight counts of crimes of genocide and crimes against humanity allegedly committed at 20 different crime sites. The original estimate for the trial was 29 months. To date, 128 Prosecution witnesses have given oral testimony. On 3 October 2007 the Trial Chamber issued a Decision which had the effect of reducing the number of Prosecution witnesses by 17. The Prosecution indicated on 6 November 2007 that 13 witnesses remain and that the Prosecution case will finish on 29 January 2008. The Trial Chamber has continued to monitor the use of time closely. Of the Prosecution witnesses who have given oral testimony, 12 have been Rule 92 *bis* witnesses and 36 have been Rule 92 *ter* witnesses. The average length of the direct examination of the Rule 92 *bis* and Rule 92 *ter* witnesses has so far been 45 minutes and 37 minutes respectively, whereas the average length of the direct examination of all Prosecution witnesses has been 1 hour 30 minutes.

16. In the case of *Haradinaj et al.*, the three accused are charged with 37 counts in relation to crimes allegedly committed by the three accused and fellow members of the Kosovo Liberation Army against ethnic Serbs, Albanians, and Roma in Kosovo in March-September 1998. The trial commenced on 5 March 2007 with an estimated trial length of twelve months. So far throughout the trial, approximately half of the witnesses testified pursuant to Rule 92 *ter* of the Rules of Procedure and Evidence.

17. In the case of *Boškoski and Tarčulovski*, the two accused are charged with three counts of violations of the laws or customs of war in relation to crimes allegedly committed between 12 and 15 August 2001 in Ljuboten and related locations in Macedonia. The trial commenced on 16 April 2007. The Prosecution case is expected to close in November 2007. During the trial, the Chamber considered on eight occasions the reduction of the Prosecution's witness list. It granted the Prosecution leave to remove from its witness list a total of 42 witnesses whose evidence was deemed repetitive.

18. In the trial of *Delić,* the accused is charged with four counts of violations of the laws or customs of war in relation to four crime sites. The trial commenced on 9 July 2007 with an estimated trial length of 12 months. The *Delić* Trial Chamber allowed a total number of 73 Prosecution witnesses and decided that the presentation of the Prosecution case should not exceed 250 hours. Upon invitation by the Chamber, the Prosecution and Defence have agreed on 159 facts.

19. During the reporting period, Pre Trial Judges have been working to ensure the expeditious conduct of those cases awaiting trial.

20. Pre-trial phases were completed in three cases. In the *Simatović and Stanišić* case, the pre-trial phase was completed on 17 September 2007, in accordance with the work plan, but the opening of trial had not been scheduled yet. In the *Perišić* case, the Trial Chamber invited the Prosecution to cut down its case by one third, resulting in the dropping of 22 witnesses and a reduction of the estimated duration of the Prosecution case by 169 hours. In accordance with the work plan, the case is now ready for trial, but no schedule has been adopted with respect to the opening of trial. The pre-trial phase was also completed in the *Šešelj* case, thanks to frequent status conferences held to speed up trial preparations.

21. The pre-trial phase in the *Mićo Stanišić* case is also drawing to a close. The Prosecution and Defence Pre-trial Briefs were filed early this year and, were it not for some outstanding motions, the pre-trial phase has been completed.

22. In the *Gotovina et al.* case, after a reduction of the Indictment by one-third ordered by the Trial Chamber pursuant to Rule 73 *bis* (D) of the Rules during the last reporting period, replacement of counsel on two defence teams has temporarily delayed ongoing negotiations on agreed facts among the parties. However, with the appointment of new counsel on these defence teams the agreed facts discussions have now resumed. In the *Lukić and Lukić* case, after the reversal of 11*bis* referral of Milan Lukić by the Appeals Chamber and the consequent revocation of the referral of his co-Accused, Sredoje Lukić, by the Referral Bench, a first status conference was held on 4 September 2007, which led to the adoption of a work plan. In the *Tolimir* case, the Trial Chamber issued a Decision denying a Prosecution Motion for joinder with the case of *Popović et al.* In the *Đorđević* case, pre-trial proceedings started on 16 July 2007, after the further initial appearance of the Accused.

23. With the arrival of four new accused in three cases, the work of the Trial Scheduling Working Group has remained crucial. The Trial Scheduling Working Group has continued the difficult task of monitoring the progress of cases and assessing the trial readiness and expected duration of awaiting trials. The ongoing receipt of information from Judges with respect to the progress of trial and pre-trial proceedings has enabled the Trial Scheduling Working Group to produce a reasonably accurate forecast of the anticipated completion of all trials. The International Tribunal had been able to plan to

finish all trials during 2009. However, the effect of these three additional trials is that two of them cannot be completed until early 2010. As is to be anticipated, the later the arrests of remaining fugitives are carried out, the longer it will take to complete the mandate of the International Tribunal. Furthermore, while this is the current prediction, it is subject to the usual caveats that can cause delays in trials such as those identified above. Slippages in projected dates due to new arrivals are not a cause of concern with respect to the overall efficiency of the work of the International Tribunal, which remains unparalleled.

24. As has been previously reported to the Council, the Appeals Chamber has also adopted concrete measures to expedite appeals following the report of the Working Group on Speeding up Appeals. These measures have resulted, *inter alia,* in shortening the time limits for the filing of appeals, in avoiding repetitious filings, and in expediting the disposal of appeals by expanding the use of written as opposed to oral submissions. Additionally, the expanded role of the pre-appeal Judge in disposing of routine motions and expediting pre-appeal proceedings has ensured the readiness of appeals from Judgement for hearing at the earliest opportunity. The impact of these measures has resulted in an unprecedented number of appeals disposed of in the last year.

25. The Rules Committee has continued to explore Rule Amendments aimed at further streamlining trial and appeal procedures. At the last ordinary plenary session of 12 July 2007, amendments were adopted to provide for greater use of testimony by video-link conference (Rule 81*bis*) and amendments were made to Rule 62 to specify timelines for the filing of pre-trial motions for accused who declined the assistance of Counsel. Additionally, Rule 75 was amended to allow direct petitioning by other judicial authorities for access to protected material. This last amendment is particularly aimed at improving judicial cooperation between the International Tribunal and domestic courts in the region of the former Yugoslavia.

26. In the first Completion Strategy Report submitted to the Security Council in May of 2004, the Security Council was advised that a total of eight accused were being tried in six cases and that in the nine years following its establishment, the International Tribunal had completed or was holding first instance proceedings involving 59 accused in 38 proceedings.[5] There were a total of 33 accused awaiting trial in 17 cases,[6] appeals had been completed in 20 cases involving 28 accused,[7] and 20 fugitives were at large. Today, only three and a half years later, only 11 accused are in the pre-trial stage,[8] 27 accused are currently on trial,[9] and trial proceedings against 111 accused have been completed. Appeals have been completed in 47 cases involving 68 accused and only four fugitives

[5] S/2004/420, para.2.

[6] S/2004/420, Annex 3.

[7] S/2004/420, Annex 4.

[8] *See* Enclosure IV.

[9] *See* Enclosure II.

remain at large.[10] These figures fully demonstrate, that the achievements of the International Tribunal far surpass any reasonable expectation.

B. *Ad litem* Judges

27. The International Tribunal continues to benefit greatly from the dedication of its *ad litem* Judges and as President of the International Tribunal, I have been greatly supported by their outstanding contribution to expediting our work. Currently, the International Tribunal has all twelve *ad litem* Judges fully engaged in the work of the Tribunal. Of these twelve, two are serving both as *ad litem* Judges on one trial and reserve *ad litem* Judges on an additional trial, while one *ad litem* Judge is serving on two trials. These Judges are required to attend two court sittings per day, from early morning into the evening. Due to the arrangement of the trial schedule to maximize sitting time in both cases, the breaks accorded to these *ad litem* Judges are at times few and of short duration.

28. During the reporting period, three *ad litem* Judges have begun hearing an additional trial while drafting Judgement in another case, thus serving on two cases full time. *Ad litem* Judges which have not been assigned to an additional trial are fully engaged in the preparation of new cases for trial. Accordingly, all twelve *ad litem* Judges have been willing to take on an onerous workload to ensure the expeditious completion of the International Tribunal's mandate and to secure the continued support of the Council and of Member States.

C. Judges and Staff Retention

29. I cannot emphasize enough how critical it is to the successful implementation of the Completion Strategy that the International Tribunal retain its highly qualified and experienced staff. The number of qualified staff leaving the Tribunal for more secure employment with other institutions has increased over the reporting period and while the Tribunal has managed to minimize delays in recruitment by using the roster system to secure incoming staff, departures do inevitably result in some delays, which are detrimental to the expeditious completion of the International Tribunal's mandate. The International Tribunal continues to apply in-house incentives to retain staff such as promotions and compensation time, but the growth of other international courts, including more permanent courts, makes that task increasingly difficult. In this respect, the International Tribunal needs the support of the Security Council and of Member States to offer sufficient incentives to guarantee as much as possible that its best staff will not leave until the work of the International Tribunal is completed.

30. Even more importantly, the efficiency of the International Tribunal's work is premised upon the experience and dedication of all its Judges. Many of the International

[10] *See* Enclosure III.

Tribunal's Judges are currently serving their second term, while a few are in their third term. The retention of these qualified and highly experienced Judges is critical to meeting the aims of the Completion Strategy. In this respect, it is crucial that the conditions of service of Judges are correctly implemented as far as pensions are concerned.

D. Referral of Cases Involving Intermediate and Lower-Ranking Accused to Competent National Jurisdictions

31. The referral of cases involving intermediate and lower-ranking accused to competent national jurisdictions pursuant to Rule 11*bis* has been central to the implementation of the International Tribunal's Completion Strategy. There was one additional motion for referral filed in the *Rasim Delić* case during the reporting period, which was denied by the Referral Bench.

32. The impact of referrals on the overall workload of the International Tribunal has been substantial. As indicated in previous reports, the Prosecutor has filed 14 referral motions involving 22 accused. During the reporting period, the Prosecution's request for referral of the case against Rasim Delić to Bosnia and Herzegovina was denied on 6 July 2007. Consequently, the trial of Rasim Delić started on 9 July 2007. On 11 July 2007, the Appeals Chamber also reversed the Referral Bench decision of 5 April 2007 to refer the case of Milan Lukić to Bosnia and Herzegovina and instructed the Trial Chamber to proceed with trial. Consequently, the Referral Bench revoked the referral of Milan Lukić's co-accused, Sredoje Lukić and a first status conference was held on 4 September 2007.

33. Of the motions filed since the adoption of the rule on referrals, the Referral Bench has granted nine motions involving 15 accused and none are currently pending. Of those granted, 10 accused appealed to the Appeals Chamber and all appeals have been disposed of. One appeal decision remanded a case involving two accused back to the Referral Bench (*Rašević and Todović*), which eventually upheld the referral, and another appeal of one accused, Milan Lukić, was granted by the Appeals Chamber. The other decisions upheld the referrals in the cases of *Stanković, Mejakić et al., Ljubičić, Janković and Kovačević and Trbić.* Currently, ten accused have been transferred to the Special War Crimes Chamber of Bosnia and Herzegovina, two accused have been transferred to the authorities of Croatia, and one accused has been transferred to Serbia for trial before the domestic courts of these countries.[11]

34. The Prosecution continues to monitor the trials referred to the region through the Organization of Security and Cooperation in Europe ("OSCE"). Under Rule 11*bis,* the Prosecution has the authority to request the Referral Bench to revoke its referral order should it determine that such a case is not being conducted in full adherence with human rights norms and due process standards. Of the cases referred by the International

[11] *See* Enclosure V.

Tribunal, the Special War Crimes Chamber of Bosnia and Herzegovina has completed two trials, three trials are ongoing and one case is at the pre-trial stage. On 28 March 2007 proceedings against the first accused referred, Stanković, came to a close with the Appellate Panel of the Court of Bosnia and Herzegovina sentencing him to 20 years' imprisonment. On 16 February 2007, the trial of Janković concluded with the Court finding him guilty of crimes against humanity and sentencing him to 34 years' imprisonment. The International Tribunal is satisfied that the trials of both of these accused respected international norms of due process as recognised by the reports of the OSCE and human rights organizations. The trial in the single case referred by the International Tribunal to Croatia, that of *Ademi and Norac*, started on 18 June 2007.

E. Outreach and Capacity-Building

35. In order for the International Tribunal to succeed in its mission of contributing to peace in the territories of former Yugoslavia, it is essential for its work to be accessible and intelligible to the various communities there. The Tribunal's Outreach Programme is specifically geared to promote a better understanding of the International Tribunal's work to audiences throughout the area under its jurisdiction. It has also been at the forefront of establishing partnerships with national organizations in the former Yugoslavia in order for them to improve their capacity to hold fair trials.

36. Through its Outreach Programme and field offices in Belgrade, Sarajevo, Prishtine/Pristina and Zagreb, the International Tribunal also continued to disseminate its cases and findings to audiences in the former Yugoslavia. Its representatives continued to handle a high volume of requests from the media, frequently appearing on electronic media, as well as handling enquiries from the printed press. The International Tribunal also ensured that it was actively involved in a multitude of grass-roots meetings and events. It continued to work closely with victims' associations, civil society organizations promoting the rule of law, as well as bodies involved in truth-telling and reconciliation efforts.

37. The International Tribunal has long recognized the importance of its contribution to supporting the rule of law in the States of the former Yugoslavia. The Judges of the International Tribunal have made time within their busy schedules to share their expertise and experiences with members of the local judiciaries. For instance, in October 2007, a judge addressed participants at the annual judicial college in Bosnia and Herzegovina on the issues of trial efficiency, case management and witness protection.

38. As part of its established programme of support to developing national judicial capacity, the International Tribunal continued to participate in a wide-ranging series of training and familiarization events for Judges, prosecutors and other legal professionals in the Former Yugoslav Republic of Macedonia. In October-November 2007, the International Tribunal hosted the third group representatives of the Macedonian judiciary as part of a programme on the International Tribunal's operating practices. As part of the

same initiative the Tribunal's Outreach offices arranged for International Tribunal investigators in July 2007 to take part in a two-day workshop for organized crime and corruption investigative judges and prosecutors, while Chambers' personnel travelled to Skopje in September 2007 to provide training in drafting judicial decisions and judgements, as well as researching international humanitarian law and ICTY jurisprudence. In Bosnia and Herzegovina, the International Tribunal continued to participate in a number of training and know-how transferral events such as a defence training seminar held in Sarajevo in July 2007. Additionally, key judicial and legal officials from across the region continued to visit the International Tribunal in The Hague for consultations and familiarization. Furthermore, the International Tribunal was especially pleased to initiate a new training and know-how transfer exercise which began in July 2006, with a group of eight law students from Serbia integrated as interns. The group, supported by the Belgrade-based non-governmental organization, Youth Initiative, will spend up to six months at the International Tribunal before starting a second internship within the specialized war crimes section of the Belgrade District Court.

39. It is imperative that domestic jurisdictions are given the support they need from the Security Council and the international community to develop their judicial capacity so as to ensure that all referred cases are conducted in full compliance with the standards of due process. This is critical to the success of the International Tribunal's Completion Strategy. The International Tribunal is aware that some Member States have taken initiatives to provide resources and training to strengthen the rule of law in the States of the former Yugoslavia, but it is clear that much remains to be achieved if these courts are to successfully continue the work of the International Tribunal in the future. For example, there still remains much work to be done to facilitate cooperation between States of the region in the investigation and prosecution of alleged war criminals. There is also a desperate need to ensure adequate detention facilities for remand and convicted accused and that the rights of remand and convicted accused are respected by those responsible for their detention. In that respect, there is still much to be achieved in the training of police and prison officers on due process and human rights standards, which must be respected if trials and detentions of accused and convicted persons are to satisfy internationally accepted standards. One should not forget that it was never intended nor was it considered possible for the International Tribunal to try all persons responsible for the atrocities committed during the conflict in the region. The international community must not underestimate the importance of the courts in the States of the former Yugoslavia having the capacity to carry on the legacy of this International Tribunal long after it has completed its mission.

F. Cooperation of States with the International Tribunal

40. Yet again I must regrettably report to the Security Council the International Tribunal's deep concern with the failure of States to secure the arrest and transfer of the four high level remaining fugitives Karadžić, Mladić, Župljanin, and Hadžić. As its Presidents have consistently reported to the Security Council, the International Tribunal

must not close its doors until these fugitives are arrested and tried. The International Tribunal must fully discharge its mandate so that the message and legacy of the International Tribunal, that the international community will not tolerate serious violations of international humanitarian law, is not thwarted.

41. The success of the International Tribunal depends on the willingness of States to co-operate in full adherence with their obligation to do so under Article 29 of the Statute of the International Tribunal. The necessity of full cooperation from States in the arrest of all remaining fugitives has now reached a critical stage. Without the arrest and trial of these remaining fugitives, the International Tribunal's key objective to bring justice, peace and reconciliation to the region of the former Yugoslavia will be seriously undermined.

42. I urge the Security Council to take concrete action and ensure that these fugitives are not allowed to avoid international justice. The Security Council must make clear that the trial of these fugitives by the international community does not hinge upon the International Tribunal's proposed Completion Strategy dates. Additionally, I continue my call to all States to do all within their power to ensure the arrest of these fugitives immediately.

III. Legacy of the International Tribunal

43. For over two years now, the International Tribunal has focused attention on its legacy and most crucially on mechanisms that will have to remain in place to dispose of residual issues once the International Tribunal completes all trials and appeals on its docket. In April 2007, the International Tribunal, in collaboration with the International Criminal Tribunal for Rwanda, submitted a second report on legacy issues to the Office of the Legal Advisor in New York for Member State consideration, which followed an earlier report submitted in December 2006. This second report resulted in a meeting of the Presidents, Registrars and Prosecutors from both Tribunals with the Security Council Working Group on the *ad hoc* Tribunals in June 2007. At that meeting, the Legacy Report of the Tribunals was debated. Following that meeting, the Tribunals, taking on board the comments of Member States, submitted a final report to the Office of the Legal Advisor in September 2007.

IV. Updated Prognosis Regarding Implementation of the Completion Strategy

44. The International Tribunal's commitment to make all efforts to meet Completion Strategy deadlines is demonstrated by this report. However, there have been factors outside the control of the International Tribunal which have resulted in a slippage in previously estimated completion dates. Of prime concern is the failure of States to ensure the arrest of outstanding fugitives. Late arrests, such as those that recently occurred with the fugitives Tolimir and Đorđević, while better than a failure to arrest, do impact upon Completion Strategy targets. The same can be expected with respect to the four remaining

fugitives. If those fugitives are arrested now some, but not all, may be suitable for joinder with pending trials, however, any delays will inevitably result in their having to be tried separately and this will cause additional slippage in Completion Strategy dates. That said, due to the dedication and commitment of the Judges and staff of the International Tribunal, the International Tribunal has succeeded in arriving at a clear estimation for the completion of all of its pending trials in early 2010, as shown by the chart of scheduled trials attached in Enclosure IX. Furthermore, the International Tribunal estimates that all appeals should be concluded within 2011. These dates are projections only and with the sustained dedication of the Judges and the staff, we will continue to seek new measures to increase the efficiency of the International Tribunal's work, in full compliance with due process and fair trial rights of the accused. However, this presupposes that the International Tribunal will be able to retain its highly qualified and experienced Judges and staff. In this respect, I must again flag for the Council the utmost importance of ensuring that the conditions and service of Judges of the International Tribunal are respected and that the Council shows support for schemes aimed at the retention of necessary staff members.

V. Conclusion

45. This report to the Security Council demonstrates the International Tribunal's steadfast commitment to achieving greater efficiency in its work without sacrificing due process. It also amply demonstrates that the International Tribunal has been most efficient and productive. However, it also bears remembering that the success of the International Tribunal cannot be measured only by the Judgements it has issued or the number of trials and appeals it has completed. Rather, the crux of the International Tribunal's success is the invaluable precedent it has set for the enforcement of international humanitarian law and the contribution it has made to the establishment of peace and stability in the former Yugoslavia.

Annex II

Assessment and report of Carla Del Ponte, Prosecutor of the International Criminal Tribunal for the former Yugoslavia, provided to the Security Council pursuant to paragraph 6 of Security Council Resolution 1534 (2004)

1. This report is submitted pursuant to Security Council resolution 1534 (2004) adopted on 26 March 2004 and follows up on the Prosecutor's written assessment of 15 May 2007.

I. Introduction

2. During the past six months, progress was made in meeting the goals of the Completion Strategy. However, the fact that four accused remain at large, including the most notorious, Ratko Mladić and Radovan Karadžić, remains a crucial challenge to the Tribunal and the international community.

3. The Office of the Prosecutor focused on four priorities, which are set out in this report: (1) the completion of trials and appeals; (2) the transfer of cases under Rule 11*bis* of the Rules Procedure and Evidence as well as investigation files to national authorities and activities to enhance the capacity of national jurisdictions; (4) international cooperation and efforts to apprehend the remaining fugitives; (5) forward planning as set out in the 2008-09 budget proposal and the Tribunal's legacy proposal.

II. Trial and Appeal proceedings

4. The work of the Office of the Prosecutor continues apace and in many areas has increased to meet the accelerated trial and appeals calendar. As reported in the President's assessment in Annex I, the Tribunal's trial activity has increased. With the commencement of the *Delić* trial in July 2007 and the *Šešelj* trial in November 2007, the number of cases on trial has increased from six to seven, proceeding simultaneously in the Tribunal's three courtrooms. This is in addition to an eighth case, against *Dragomir Milošević*, which is awaiting final judgement. Since the Prosecutor's last report, the prosecution evidence is on the verge of completion in the *Haradinaj*, in the *Boškoski* and in the *Prlić* cases, involving an additional 11 accused. Significantly, in *Milutinović et al.*, the first of the multi-leadership cases, the so-called "mega trials" each involving six or more high-ranking accused, several of the accused have also completed the presentation of their defence cases within or ahead of the original time estimates. That case is on schedule to complete proceedings by March 2008. Thus far, it would appear, assuming the *Milutinović* trial is a reliable guide, earlier fears that these large cases would become unmanageable have not materialised and have in fact proven to increase substantially the Tribunal's efficiency. The other two multi-leadership cases continue with steady progress, including the *Prlić et al* trial, in which, as noted, the prosecution's case will be completed before the end of 2007.

5. The workload of the Prosecution has also increased with the arrests and transfers of two fugitives, Vlastimir Đorđević and Zdravko Tolimir, and the rejection of a Rule 11*bis* transfer motion in the case against *Milan Lukić* and *Sredoje Lukić*. Because a substantial portion of the evidence in both cases is the same, to minimize the amount of duplication necessary, the Prosecutor filed a motion to join the *Tolimir* case to the *Popović et al* case. The Trial Chamber, on account of the advanced stage of the existing trial, denied the joinder and ordered that both trials be conducted separately. In relation to the *Đorđević* case, the fact that the Prosecution had already concluded its case against *Milutinović et al.* made such an avenue impossible from the outset. Nevertheless economies can be realised in the *Đorđević* and *Tolimir* cases, where the Prosecution will endeavour where possible to utilize adjudicated facts from the previous cases. In this way, the Prosecution hopes to reduce the need to prove certain matters again, saving valuable court time. The ever increasing amount of evidence presented before the Tribunal and adjudicated upon, makes the use of this important tool more valuable and efficient with the completion of each trial.

6. These two new trials are in addition to the case against *Milan Lukić* and *Sredoje Lukić*, which the Office of the Prosecutor sought to transfer to Bosnia and Herzegovina pursuant to Rule 11*bis*. The Appeals Chamber's reversal of the Referral Bench's decision to transfer this case indicates that the Prosecution has now exhausted further transfers pursuant to Rule 11*bis*. The addition of three trials will have an obvious impact on the work of the Prosecution, effectively adding one calendar year to the trial schedule. Nonetheless, the Prosecution continues to do everything it can to undertake this extra workload in the most efficient manner possible.

7. The Office of the Prosecutor's efforts to increase the efficiency of ongoing trials has continued throughout the reporting period, particularly by ever greater reliance on the use of evidence in written form wherever possible. This is especially so in the case of evidence relating to the actual commission of crimes to which the accused is allegedly linked. Typically, this involves tendering a witness's evidence by way of a written statement to avoid the need for the personal appearance of the witness, or if appearance is required, at the very least to limit the amount of time a witness has to spend giving oral evidence. However, with certain witnesses the Prosecution may still be required to take their evidence live in court. The time savings in court brought about by the use of written evidence are only achieved with considerable time-consuming work carried out behind the scenes by the Prosecution. There is a limit to the capacity of the Office of the Prosecutor to do much more in securing these time savings.

8. Additionally, all parties remain bound by the strict time limits imposed by the Trial Chambers as to the length of time permitted for the preparation and presentation of their respective cases. The Office of the Prosecutor continues to meet all deadlines imposed on it despite being stretched with respect to its pre-trial resources. All cases have been brought to trial on time. The Prosecution has exercised rigid discipline in adhering

to the time limits imposed for the conducting of its cases through restricting the number of witnesses called and the length of time taken for each witness. However, trials become more difficult to manage and predict with accused that represent themselves, such as Vojislav Seselj and Zdravko Tolimir. Translation issues, for instance, become even more acute in these circumstances.

9. The Appeals Unit within the Office of the Prosecutor has experienced an increase in its workload over the reporting period. Preparations are currently under way for appeals in the cases of *Hadžihashanović* and *Kubura*, *Orić*, *Strugar*, *Krajišnik*, *Martić* and *Mrkšić* and *Šljivančanin*. For the first three of these cases the extensive written preparations have been completed and only the oral hearings remain. Moreover, all submissions for the other cases have been scheduled for completion within the time limits imposed by the Appeals Chamber.

III. Cooperation with national jurisdictions and the transfer of cases and investigation files to the competent national jurisdictions

10. The transfer of cases and investigation files to national jurisdictions is a key component of the Tribunal's Completion Strategy. As outlined in the President's report, the Prosecutor has, in total, filed 14 referral motions involving 22 accused, pursuant to Rule 11*bis*. During the reporting period, two motions for referral were denied, namely in the *Milan Lukić and Sredoje Lukić* case and the *Rasim Delić* case. Out of a total of 14 motions, eight motions have been granted, involving 13 accused. Milorad Trbić was the tenth accused that was transferred to the Special War Crimes Chamber of Bosnia and Herzegovina. Two accused have been transferred to the authorities of Croatia and one accused has been transferred to Serbia. There remain no pending applications under Rule 11*bis* before the Referral Bench and the requirements under the Rule do not make it possible to consider any additional case for transfer.

11. Under Rule 11*bis*, the Prosecutor is obligated to monitor all transferred cases and report on a regular basis to the Referral Bench. In order to meet this obligation, the Prosecutor concluded an agreement with the Organization for Security and Cooperation in Europe (OSCE) in 2005, pursuant to which the OSCE reports on developments in transferred cases through its missions in Bosnia and Herzegovina, Croatia and Serbia. OSCE monitoring was a prerequisite of each and every referral decision and is therefore an integral component of the Tribunal's referral process. At this juncture, viable monitoring alternatives are non-existent.

12. Taking into consideration the OSCE's critical role, the Prosecutor has expressed concern to the political leadership of the OSCE about the possible ending or reduction of OSCE's monitoring capabilities in Croatia at the end of 2007. Ending or substantially reducing monitoring activities would negatively affect the Prosecutor's ability to meet her obligation to the Tribunal's Referral Bench in the *Ademi and Norac* case and could affect other capacity building activities as well. The Prosecutor and the Croatian Government

have agreed that the OSCE's monitoring capabilities should continue with a number of national and international staff members based in Croatia. In this regard, the Prosecutor strongly urges UN Member States, that are participating States in the OSCE, to maintain both an international and national staff presence in Croatia, which is sufficient to address the extensive remaining tasks in relation to ICTY transfers. The Prosecutor also encourages OSCE monitoring of domestically initiated war crimes proceedings.

13. The Special War Crimes Chamber of the State Court of Bosnia and Herzegovina - a hybrid court with national and international staff - has made good progress in trying cases that have been referred pursuant to Rule 11*bis* as well as war crimes cases initiated by national prosecutors. The trial of Radovan Stanković has been completed. Gojko Janković has been convicted in first instance. All other referred cases are currently underway. These positive developments are marred by Radovan Stanković's escape from custody on 25 May 2007. He was the first Rule 11*bis* accused who was transferred to the judicial authorities of Bosnia and Herzegovina on 17 April 2007. He was sentenced to 20 years of imprisonment and transferred to the Foča Detention Centre to serve his sentence. The fact that Radovan Stanković escaped and remains at large shows that the reform of the detention facilities must be a part of an overall reform of justice system in the countries of the former Yugoslavia.

14. The trial against *Rahim Ademi* and *Mirko Norac*, the sole case transferred to Croatia pursuant to Rule 11*bis*, started on 18 June 2007. This trial presents significant challenges, including the need for extensive inter-state judicial co-operation, particularly in relation to the testimony of witnesses. In Serbia, the case against *Vladimir Kovačević* will start on 5 December 2007.

15. The Office of the Prosecutor also continued to handover investigative materials to the national prosecutors. These are the "Category II" cases, in which the Tribunal issued no indictment. To date, eight such investigation files have been transferred, four to Bosnia and Herzegovina, two to Croatia and two to Serbia. The Office of the Prosecutor aims at transferring further investigation files to Bosnia and Herzegovina involving a total of 32 persons by the end of 2008. Certain materials from these dossiers have already been provided to authorities in Bosnia and Herzegovina. Based on materials provided a number of cases have gone to trial or are about to go to trial in Sarajevo, Zagreb and Belgrade.

16. The Office of the Prosecutor has prepared for the transfer back of four files of preliminary investigation work to the Former Yugoslav Republic of Macedonia, . In 2001, a Trial Chamber had ordered to defer jurisdiction of these files to the Tribunal. A Senior Government Envoy and the Public Prosecutor of the Former Yugoslav Republic of Macedonia informed the ICTY Prosecutor in September 2007 that, due to the initial Tribunal Chamber's deferral order, they were unable to receive the files and proceed with the cases unless the transfer is approved by an Order of the Tribunal's Chambers. The Prosecutor therefore subsequently filed a Motion under Rule 73(A) seeking clarification

from the Chambers as to whether the transfer requires approval by a bench judges or whether transfer can be done directly to the Macedonian authorities. The matter has been referred to a specially constituted trial chamber and, at the time of writing, the motion is still pending. Training programmes are underway and the Office of the Prosecutor will continue to provide assistance to national prosecutors as it has done thus far.

17. Over the years, cooperation with national prosecutors has become a central component of Tribunal's Completion Strategy. The Office of the Prosecutor and in particular its Transition Team is continuing to work full-time on all cooperation matters. The Team prepares the transfer of investigation files and assists local authorities by responding to multiple requests for assistance and answering questions, not only in relation to the transferred files, but also in relation to other related cases handled by the Tribunal. The Office of the Prosecutor has granted access to its document databases, and specific formalised arrangements have been made with State prosecutors of Bosnia and Herzegovina, Serbia and Croatia to ensure access to the Office of the Prosecutor's evidence collection, including the Office's Electronic Disclosure Suite, which is an electronic database with the Prosecution's evidence collection. Most recently Memoranda of Understanding regarding access to the Electronic Disclosure Suite have been concluded with the Office of the Prosecutor of Montenegro as well as the Former Yugoslav Republic of Macedonia.

18. Throughout this reporting period, the Office of the Prosecutor, in association with Chambers and Registry, continued to be actively engaged in capacity building activities. In addition to almost daily contacts with national prosecutors, the Office of the Prosecutor participated in conferences, training seminars and other symposia, such as conferences organized by the Croatian State Attorney's Office. Training sessions were also conducted in Skopje and The Hague for judges and prosecutors from the Former Yugoslav Republic of Macedonia. Such events are important to regional cooperation and future war crimes prosecutions and will be continued.

19. The Office of the Prosecutor encourages efforts to strengthen cooperation between national prosecutors in the countries of former Yugoslavia, as initiated by the OSCE in the "Palic process" and continued by the Croatian State Attorney at the Brijuni conference which was held in July this year. The ICTY Prosecutor welcomes recent initiatives by the prosecutors of the region to enhance their cooperation. There has been noted progress as Serbia, Croatia and Montenegro have concluded agreements regulating the exchange of case related materials and evidence between prosecutors for further processing before their respective courts. Unfortunately, the relevant authorities of Bosnia and Herzegovina have not entered into such bilateral agreement. Another positive example is the commitment of these States to establish and share parallel "inventories" of war crimes cases based on an agreed criteria, assisted by the ICTY Office of the Prosecutor.

20. Nevertheless, despite this progress, there are still a number of obstacles which hamper effective inter-state judicial cooperation. Moreover, the failure to resolve the issue of non-extradition of nationals and the question of transferring proceedings between the States involved continues to be of concern. The ensuing judicial vacuum, whereby victims are denied justice, continues to lead to an "impunity gap" in the region, as alleged war criminals continue to evade justice. Although there has been progress in allowing case materials and evidence to be transferred between Serbia, Croatia and Montenegro, political will is needed to comprehensively address these issues. Legislation must be adapted so as to improve cooperation and allow for the extradition of nationals and the transfer of proceedings without limitation. The Office of the Prosecutor will continue to support ongoing efforts and initiatives to address these important issues.

IV. International cooperation and arrest of fugitives

21. To successfully fulfil its mandate, the Office of the Prosecutor relies on full cooperation of States, as required under Article 29 of the Statute of the Tribunal. During the reporting period, the Office of the Prosecutor continued to rely on the assistance of States in a number of areas. Cooperation from States from the former Yugoslavia remains crucial, in particular, for the provision of documents, to gain unimpeded access to Government archives and the arrest of the remaining fugitives.

22. During the reporting period, the Office of the Prosecutor pursued efforts to apprehend all remaining fugitives. At the time of writing this report, four indictees remain at large, namely Ratko Mladić, Radovan Karadžić, Stojan Župljanin and Goran Hadžić. As a result of the diminishing direct involvement of the international community in tracking or in assisting in locating fugitives and their networks over the past years, the Office of the Prosecutor, despite limited resources available, has gradually been working more closely with authorities in the region. However, support from the international community remains crucial.

23. The Office of the Prosecutor is convinced that the remaining accused are within reach of the authorities in Serbia and that Serbia has the means to take the necessary steps to locate fugitives which would lead to their arrest. The Serbian Government that was installed last May has adopted a more positive stance towards cooperation with the Tribunal and has pledged to take all necessary measures that would lead to the arrest of the remaining fugitives. This has led to improved relations with this Office, in particular, at the working level. Not long after that Government was formed, two fugitives were arrested, namely Zdravko Tolimir and Vlastimir Đorđević. The role of Serbian authorities was instrumental in these arrests. As a result of intensive cooperation between the authorities of Serbia and the Republika Srpska in Bosnia and Herzegovina, Zdravko Tolimir was arrested on 31 May 2007 and transferred to The Hague the next day. Serbian authorities also played a crucial role in the arrest of Vlastimir Đorđević who was apprehended in Montenegro and transferred to the The Hague on 17 June 2007.

24. Serbian authorities have made some progress in improving coordination between different services to track these fugitives. At the political level, leadership has improved, as the National Security Council, which was established last June, can direct security services and request reports, leading to better coordination between services involved in cooperation with the Tribunal. At the operational level, the Action Team, comprised of various services, meets on a regular basis and has become more effective recently. Although tracking efforts and coordination still need to improve significantly, the pace of work has notably increased and it is hoped that this will result in more effective and targeted operations. Since mid October, a senior representative of the Office of the Prosecutor attends the biweekly Action Team meetings and thus the Office of the Prosecutor has become more closely associated with the current efforts of Serbian authorities geared towards locating and arresting the remaining fugitives. Contacts at the operational level are now more frequent and have improved. This involvement demonstrates the Office of the Prosecutor's commitment to directly supporting ongoing initiatives and operations. However, these efforts, which are resource intensive, cannot continue indefinitely and will only be fruitful if those made by the Serbian authorities are intensified and more systematic.

25. There are also positive developments such as the reward promised by the Serbian Government to those who provide information leading to the arrest of ICTY fugitives and the adoption of a law expanding the role of the War Crimes Prosecutor to include jurisdiction over those who aid and abet war crimes fugitives. Although the effective implementation of these decisions and concrete results are still expected, these developments are encouraging signs of the Serbian authorities' commitment to cooperate on the arrest of the remaining fugitives.

26. During the Prosecutor's most recent visit to Belgrade, the President and Prime Minister of Serbia have indicated that it would be in Serbia's best interest to arrest Ratko Mladić. Although coordination between the intelligence services still needs to improve, it is hoped that given improved leadership combined with recent efforts made by the Serbian authorities will lead to arrests, particularly that of Ratko Mladić, who is in Serbia. It is important that the international community continue to insist on the immediate arrest of Ratko Mladić and the other fugitives.

27. The Office of the Prosecutor has also encouraged effective enhanced regional cooperation between security and intelligence services and has taken steps to trigger such cooperation. Regular meetings have been held in the region. Moreover, last October, a conference was organized in The Hague with the heads of intelligence services of Bosnia and Herzegovina, Serbia, Montenegro, the former Yugoslav Republic of the Former Yugoslav Republic of Macedonia and Slovenia to strengthen ties, improve the exchange information and address the problem of fugitives. This practice will be continued and more meetings are planned to take place in the future.

28. In the first months of the reporting period, there were long delays in Serbia responding to requests for documents and granting access to government archives has been an obstacle, in particular to the archives of the Security and Intelligence Service (BIA). However, following two trips of the Prosecutor to Serbia and meetings with senior officials, progress has recently been achieved in these areas. The National Council for Cooperation with the Tribunal and its President made a significant contribution to these efforts. Thus, a workable arrangement for access to these archives has been established. Moreover, a number of requested documents from the Military Archives have been provided since then and the Office of the Prosecutor has been given unimpeded access to the archives of military courts.

29. The Office of the Prosecutor continues to be actively engaged in seeking the support from States and international organizations to obtain the arrest of remaining fugitives and, in particular, Ratko Mladić and Radovan Karadzić. It is hoped that the international community and especially concerned States will provide the necessary support.

30. In the past months, the Prosecutor gave an update on Serbia's cooperation with the Tribunal to the Committee of Foreign Affairs of the European Parliament and the Parliamentary Assembly of the Council of Europe, which have both reiterated Serbia's obligation to fully cooperate with the Tribunal. The Prosecutor also briefed the General Affairs and External Relations Council of the European Union on 15 October 2007 and remains on a continuing basis in continuing contact with the European Commissioner of Enlargement.

31. The European Union's conditionality policy leverage has remained the sole effective mechanism compelling Serbia to meet its international obligations. The EU has set full cooperation with the ICTY as a condition in the pre-accession and accession process of Serbia to the EU. Full cooperation with the Tribunal should be understood as implying the location and subsequent arrest of the four fugitives and, in particular, Ratko Mladić. The Prosecutor therefore relies on the European Union and its Member States to continue to adopt a strict and principled approach by maintaining this conditionality *vis-à-vis* Serbia.

32. Croatia's level of cooperation with the Office of the Prosecutor is generally satisfactory. This assistance will be critical in the coming months of preparation and during the trial of *Ante Gotovina et al*, which is expected to start in 2008. However, there remain difficulties in that case in obtaining complete and relevant documentation from to the various Government archives.

33. Bosnia and Herzegovina's level of cooperation with the Office of the Prosecutor has progressed and is now generally satisfactory. There are clear indications of progress made at the State and entity levels to improve co-ordination in targeted actions against

the fugitives' support network. Cooperation with other States in the region remains crucial.

34. There are no significant problems in the cooperation provided by the Former Yugoslav Republic of Macedonia and Montenegro. Assistance of the former Yugoslav Republic of Macedonia will remain important during the *Boškoski and Tarčulovski* trial.

35. As previously reported, there are serious problems related to the protection of witnesses and witness intimidation in the *Ramush Haradinaj et al.* case. Many Prosecution witnesses - particularly those who live in Kosovo or have family members living there - have refused to testify out of fear. This is illustrated by the fact that witnesses have refused to testify, primarily due to fear or intimidation, and the Prosecution has had to seek coercive measures to obtain their testimony. The Office of the Prosecutor will therefore need to continue to rely heavily on UNMIK's assistance in ensuring the safety of its witnesses. While cooperation on the working level continues to be adequate, the Prosecution continues to be concerned with the close relationship that the senior leadership of UNMIK maintains with Ramush Haradinaj, which can only have a chilling impact on witnesses.

V. Planning for the future: The 2008-2009 Budget and the Tribunal's Legacy

36. The budget proposal for 2008-2009 reflects the need to finish almost all first-instance trials in the next biennium and speed up appeals work. The Office of the Prosecutor will be restructured to reflect progress in judicial work and to increase efficiency. Discussions have started and concrete steps have been taken concerning the legacy of the Tribunal.

The OTP Budget and internal restructuring

37. The resource requirements for the next biennium are in line with trial activity over the next two years. Until the end of 2008, the Office of the Prosecutor will continue to function at full capacity, stretching its limited resources to cope with the remaining work-load. The Office will be reorganized internally to improve efficiency and to support effectively trial and appeals work. Thus, the Investigations Division will merge with the Prosecution Division, and the Appeals Section will be strengthened to handle an increase in appellate work. The Office will continue to focus on transitional justice work, particularly the transfer of investigative materials and providing support to national prosecutors, in order to strengthen domestic jurisdictions. In 2009, the Office of the Prosecutor is proposing considerable reductions in staff and in non-post items such as travel and General Temporary Assistance.

Staff retention

Staff members of the Office of the Prosecutor have greatly contributed to the achievements of the Office and should therefore be commended for their continued commitment and dedication to the cause of internal justice. As the Tribunal is nearing the completion of its work, there is a fear that increasing numbers of talented staff will start leave the institution. The loss of institutional knowledge and the difficulty in hiring experienced staff to complete remaining trials will invariably result in delays in completing the Tribunal's work. Together with the President and the Registrar, the Prosecutor therefore supports initiatives to find ways to retain qualified and competent staff. In this context, the Office of the Prosecutor is grateful for the United Nations' Secretariat decision to allow extensions of contracts of staff members until October 2009, which has contributed to improve staff morale.

The Legacy of the Tribunal

38. The Prosecutor supported and contributed to the ICTY and ICTR proposals regarding the legacies for both institutions. The most recent comprehensive proposal reflects discussions that took place at a working group meeting of the UN Security Council in June this year. The proposal focuses on the structure and mechanisms to remain in place once the Tribunal completes all trials and appeals on its docket. It is fundamentally important that, for legal and practical reasons, prosecutorial options are preserved and that the institution continue to exist as a legal entity - albeit radically downsized - after 2010. The Tribunal's indictments, arrest warrants and rulings must continue to have effect to ensure that fugitives apprehended after 2010 will face international justice. It is equally important that the archives, which form part of the legacy, remain available, accessible and useful to all those interested, in particular national prosecutors and the victims, but also Governments, international organisations, non-governmental organisations, judicial institutions and academic researchers. The Prosecutor welcomes the decision of the Registrars of the ICTY and ICTR to appoint a working group, headed by former Prosecutor Goldstone, that will make recommendations on this issue early 2008.

VI. Conclusion

39. To meet the objectives set in Security Council resolutions 1503 and 1534, the Office of the Prosecutor remains committed to speeding up proceedings by working closely with the other organs of the Tribunal. The Office of the Prosecutor will continue to work hard towards finishing trials in the next two and a half years. This is also reflected in its budget proposal for 2008-2009 and in the proposals set out by the ICTR and ICTY on their legacies.

40. As the Tribunal approaches the completion of its work, cooperation with national prosecutors will become even more crucial. This cooperation is aimed at strengthening

their judicial capacities and contributing to the Tribunal's legacy. Moreover, such capacity building efforts to strengthen local judiciaries must be accompanied by measures to improve regional cooperation in criminal matters.

41. The Office of the Prosecutor will continue to need assistance from States of the former Yugoslavia and the international community in order to complete its work in a timely manner and arrest the remaining fugitives. It remains unacceptable that Ratko Mladić and Radovan Karadžić at this date remain at large. The international community, the Western Balkans States and Serbia should do their utmost to make sure that they are brought to justice and that they face trial in The Hague.

Enclosure I

1. Persons Convicted or Acquitted after Trial between 01 June 2007 – 07 November 2007				
Case	**Name**	**Former Title**	**Initial Appearance**	**Judgement**
1.	Milan Martić	President, "RSK"	21 May 2002	12-Jun-07 (Sentenced to 35 years)
2.	Fatmir Limaj	KLA Commander	5 March 2003	Appeals Judgement 27-Sep-07 (Acquittal Confirmed)
3.	Isak Musliu	KLA Commander	20 February 2003	Appeals Judgement 27-Sep-07 (Acquittal confirmed)
4.	Haradin Bala	Guard at the KLA prison camp	20 February 2003	Appeals Judgement 27-Sep-07 (TC Judgement confirmed)
5.	Mile Mrkšić	Colonel in the JNA	16 May 2002	Judgement 27-Sep-07 (Sentenced to 20 years)
6.	Miroslav Radić	Captain in the JNA	21 May 2003	Judgement 27-Sep-07 (Acquitted)
7.	Veselin Šljivančanin	Major in the JNA	3 July 2003	Judgement 27-Sep-07 (Sentenced to 5 years)
8.	Sefer Halilović	Deputy Commander and Chief of Supreme Command Staff of the ABiH	27 September 2001	Appeals Judgement 16-Oct-07 (Affirmed acquittal)
9.	Dragan Zelenović	Former Bosnian Serb Soldier and de facto Military Policeman	13 June 2006	Appeals Judgement 31-Oct-07 (Trial Chamber Judgement affirmed)

2. Persons Pleading Guilty between 01 June 2007 – 07 November 2007				
Case	**Name**	**Former Title**	**Initial Appearance**	**Judgement**
No Guilty Pleas				

3. Persons Convicted of Contempt between 01 June 2007 – 07 November 2007			
Case	**Name**	**Initial Appearance**	**Judgement**
No Convictions of Contempt			

Enclosure II

1. Trials in Progress (27 accused in 8 cases)				
Case	**Name**	**Former Title**	**Initial Appearance**	**Comments**
1.	Jadranko Prlić	President, "Herceg-Bosna"	6 April 2004	"Herceg-Bosna" Trial commenced 26 April 2006
	Bruno Stojić	Head Department of Defence, "Herceg-Bosna"		
	Slobodan Praljak	Assistant Minister Defence, "Herceg-Bosna"		
	Milivoj Petković	Commander, HVO		
	Valentin Ćorić	Chief of Military Police Administration, HVO		
	Berislav Pušić	Military Police Commanding Officer, HVO		
2.	Dragoljub Ojdanić	Chief of Staff, VJ	26-Apr-02	"Kosovo" Trial Commenced 10 July 2006
	Nikola Šainović	Deputy Prime Minister, FRY	3-May-02	
	Milan Milutinović	President Republic of Serbia	27-Jan-03	
	Vladimir Lazarević	Commander, Pristina Corps, VJ, Kosovo	7-Feb-05	
	Sreten Lukić	Head Staff, Serbian Ministry of Internal Affairs, VJ, Kosovo	6-Apr-05	
	Nebojša Pavković	General, Commander 3rd VJ Army, Kosovo	25-Apr-05	
3.	Ljubiša Beara	Colonel, Chief of Security, VRS	12-Oct-04	"Srebrenica" Trial Commenced 14 July 2006
	Drago Nikolić	Chief of Security, Drina Corps, VRS	23-Mar-05	
	Ljubomir Borovčanin	Deputy Commander, Ministry of Interior Special Police Brigade, RS	7-Apr-05	
	Vujadin Popović	Lt. Colonel, Assist. Commander, Drina Corps, VRS	18-Apr-05	
	Vinko Pandurević	Commander, Zvornik Brigade, VRS	31-Mar-05	
	Milan Gvero	Assistant Commander, VRS	2-Mar-05	
	Radivoje Miletić	Chief of Operations, Deputy Chief of Staff, VRS	2-Mar-05	
4.	Dragomir Milošević	Chief Commander, Romanija Corps, VRS	7-Dec-04	Trial Commenced 11 January 2007
5.	Ramush Haradinaj	Commander, KLA	14-Mar-05	Trial Commenced 5 March 2007
	Idriz Balaj	Commander, KLA	14-Mar-05	
	Lahi Brahimaj	Deputy Commander, KLA	14-Mar-05	

6.	Johan Tarčulovski	Personal Security Officer for President, FYROM	21-Mar-05	Trial Commenced 16 April 2007
	Ljube Boškoski	Minister of Interior, FYROM	1-Apr-05	
7.	Rasim Delić	Commander of the Main Staff of the Army of BiH	03-Mar-05	Trial Commenced 12 June 2007
8.	Vojislav Šešelj	President, SRS	26-Feb-03	Trial Commenced 7 November 2007
	Total Persons: 27			

Legend:

FRY:	*Federal Republic of Yugoslavia*
Herceg-Bosna:	*Croatian Republic of Herceg-Bosna*
HVO:	*Croatian Defence Council*
JNA:	*Yugoslav People's Army*
RS:	*Republika Srpska*
RSK:	*Republic of Serbian Krajina /Republika Srpska Kkrajina*
VRS:	*Bosnian Serb Army*
VJ:	*Armed Forces of the Federal Republic of Yugoslavia*
KLA:	*Kosovo Liberation Army*
FYROM:	*Former Yugoslav Republic of Macedonia*
SRS:	*Serbian Radical Party*

Enclosure III

1. Arrivals at the Tribunal between 01 June 2007 – 07 November 2007					
	Name	**Former Title**	**Place of crime**	**Arrival Date**	**Initial Appearance**
1.	Zdravko Tolimir	Assistant Commander for Intelligence and Security of the Bosnian Serb Army	Srebrenica and Zepa.	01-Jun-07	04-Jun-07
2.	Vlastimir Đorđević	Assistant Minister of the Serbian Ministry of Internal Affairs (MUP), Chief of the Public Security Department of the MUP	Kosovo	17-Jun-07	19-Jun-07

2. Remaining Fugitives (4 accused)				
	Name	**Former Title**	**Place of Crime**	**Date indictment**
1	Radovan Karadžić	President, RS	BiH	25 July 1995
2	Ratko Mladić	Commander, Main Staff, VRS	BiH	25 July 1995
3	Goran Hadžić	President, "SAO SBWS"	Croatia	28 May 2004
4	Stojan Župljanin	Head or Commander of the Serb Operated Regional Security Services Centre	Krajina, Croatia	6 October 2004
	Total Remaining Indictees: 4			

Legend:

RS: *Republika Srpska*
SAO SBWS: *Serbian Autonomous District, Slavonia Baranja and Western Srem*
VRS: *Bosnian Serb Army*
VJ: *Armed Forces of the Federal Republic of Yugoslavia*

Enclosure IV

Accused Awaiting Trial as of 07 November 2007 (11 accused, 7 cases)			
Case	**Name**	**Former Title**	**Initial Appearance**
1	Franko Simatović*	Commander, Special Operations Unit, State Security Services ("DB"), Republic of Serbia	2-Jun-03
	Jovica Stanišić*	Head, State Security Services ("DB"), Republic of Serbia	12-Jun-03
2	Ante Gotovina	Commander, Split Military District, HV	12-Dec-05
	Ivan Čermak*	Assistant Minister Defence, Commander of Military Police, Croatia	12-Mar-04
	Mladen Markač*	Special Police Commander, Croatia	
3	Momčilo Perišić*	Chief of General Staff, VJ	9-Mar-05
4	Mićo Stanišić*	Minister, Internal Affairs, RS	17-Mar-05
5	Zdravko Tolimir	Assistant Commander for Intelligence and Security of the Bosnian Serb Army	04-Jun-07
6	Vlastimir Đorđević	Assistant Minister of the Serbian Ministry of Internal Affairs (MUP), Chief of the Public Security Department of the MUP	19-Jun-07
7.	Sredoje Lukić	Member, Serb paramilitary unit, BiH	20-Sept-05
	Milan Lukić		24-Feb-06

* *Accused have been granted provisional release.*

Legend:

ABiH: *Army of Bosnia and Herzegovina*
HV: *Croatian Army*
RS: *Republika Srpska*
SRS: *Serbian Radical Party*
VJ: *Armed Forces of the Federal Republic of Yugoslavia*
BiH: *Bosnia and Herzegovina*

Enclosure V

1. 11*bis* motions pending (01 June 2007 – 7 November 2007)				
Case	**Name**	**Former Title**	**Motion filed**	**Status**
No 11bis motions pending to date*				

* Motion for Rasim Delić case to be referred to BiH denied (9-Jul-2007).

2. 11*bis* motions pending on appeal as of 07 November 2007				
Case	**Name**	**Former Title**	**Motion filed**	**Status**
No 11bis motions pending to date*				

**Milan Lukić Referral Decision revoked (20-Jul-2007).

3. 11*bis* cases referred between 01 June 2007 – 07 November 2007				
Case	**Name**	**Former Title**	**Decision filed**	**Status**
None				

** In total, 13 Accused in 9 cases have been referred to the region on Rule 11bis motions to date.*

Legend:

BiH: *Bosnia and Herzegovina*
JNA: *Yugoslav People's Army*
VRS: *Bosnian Serb Army*

Enclosure VI

APPEALS COMPLETED FROM 16 May 2007 [1]

(with date of Filing and Decision) Updated to 7 November

INTERLOCUTORY

ICTY		
1.	Trbić IT-05-88/1-Ar73.1 ***Confidential***	17/07/06-17/05/07
2.	Prlić *et al.* IT-04-74-Ar72.2	10/05/07-04/06/07
3.	Gotovina IT-06-90-Ar72.1	03/04/07-06/06/07
4.	D. Milošević IT-98-29/1-Ar73.1-Def.	10/05/07-26/06/07
5.	D. Milošević IT-98-29/1-Ar73.1- Pros.	10/05/07-26/06/07
6.	Gotovina IT-06-90-ar73.2	04/05/07-29/06/07
7.	Prlić et al. IT-04-74-Ar65.4 ***Confidential***	20/06/07-20/07/07
8.	Tarčulovski IT-04-82-ar65.4	20/07/07-27/07/07
9.	Prlić *et al.* IT-04-74-Ar73.5 ***Confidential***	04/07/07-24/08/07
ICTR		
1.	Karemera et al ICTR-98-44-Ar73.9	11/04/07-01/06/07
2.	Bizimungu ICTR-99-50-Ar93b – ***Confidential***	30/05/07-17/07/07
3.	Kanyabashi.ICTR-98-42-Ar73	09/05/07-21/08/07
4.	Karemera *et al.* ICTR-98-44-Ar73.10	16/07/07-05/10/07

FROM JUDGEMENT

ICTY		
1.	Limaj IT-03-66-A	30/12/05-27/09/07
2.	Halilović IT-01-48-A	16/12/05-16/10/07
3.	Zelenović IT-96-23/2-A	27/04/07-31/10/07
ICTR		
1.	Muhimana ICTR-95-1B-A	20/05/05-21/05/07

OTHER

ICTY		
1.	Blaškić IT-95-14-R	23/06/06 -29/05/07
2.	Strugar IT-01-42-Misc.1 ***Confidential***	26/03/07-07/06/07
3.	Blagojević et al IT-02-60-A – ***Confidential***	21/06/07-11/07/07
4.	Milošević IT-02-54-Ar108bis.3 ***Confidential***	25/04/07-11/09/07
ICTR		
1.	Niyitegeka - ICTR-96-14-R	29/06/07-11/07/07
2.	Karemera *et al.* ICTR-98-44-Ar11bis	06/07/07-21/08/07
3.	Rwamakuba ICTR-98-44C-A	08/02/07-13/09/07

REFERRAL

ICTY		
1.	Lukić IT-98-32/1-Ar11bis.1	19/04/07-11/07/07
ICTR		
1.	Karemera *et al.* (Nzirorera) ICTR-98-44-Ar11bis	29/05/07-03/07/07

REVIEW

CONTEMPT

[1] **Total number of Appeals Completed from 16 May 2007 = 26**

Interlocutory Appeals = 13 Contempt = 0 Referral = 2

Appeals from Judgement = 4 Review = 0 Other = 7

Enclosure VII

APPEALS pending as of 10 NOVEMBER 2007 [2] (with date of filing as of 7 November 2007)			
INTERLOCUTORY		**FROM JUDGEMENT**	
ICTY		**ICTY**	
1. Prlić *et al.* IT-04-74-Ar73.6	15/10/07	1. Hadžihasanović/Kubura IT-01-47-A	13/04/06
2. Popović *et al.* IT-05-88-Ar73.1	01/11/07	2. Orić IT-03-68-A	31/07/06
3. Popović *et al.* IT-05-88-Ar.73.2	06/11/07	3. Krajišnik IT-00-39-A	25/10/06
		4. Strugar IT-01-42-A	07/06/07
		5. Martić IT-95-11-A	12/07/07
		6. Mrkšić IT-95-13/1-A	29/10/07
ICTR			
4. Karemera *et al.* ICTR-98-44-AR73.11	09/10/07		
5. Karemera *et al.* ICTR-98-44-AR73.12	15/10/07	**ICTR**	
		1. Nahimana *et al.* ICTR-99-52-A	12/12/03
		2. Simba ICTR-01-76-A	14/12/05
		3. Muvunyi ICTR-00-55A-A	12/10/06
		4. Seromba ICTR-01-66-A	11/01/07
		OTHER	
		ICTR	
		1. Rutaganda ICTR-96-3-R	07/08/07
		2. Niyitegeka ICTR-96-14-R	22/08/07
		REFERRAL	
		REVIEW	
		CONTEMPT	

[2] **Total number of Appeals pending = 15**

Interlocutory Appeals = 5 Contempt = 0 Referral = 0
Appeals from Judgement = 10 Review = 0 Other = 2

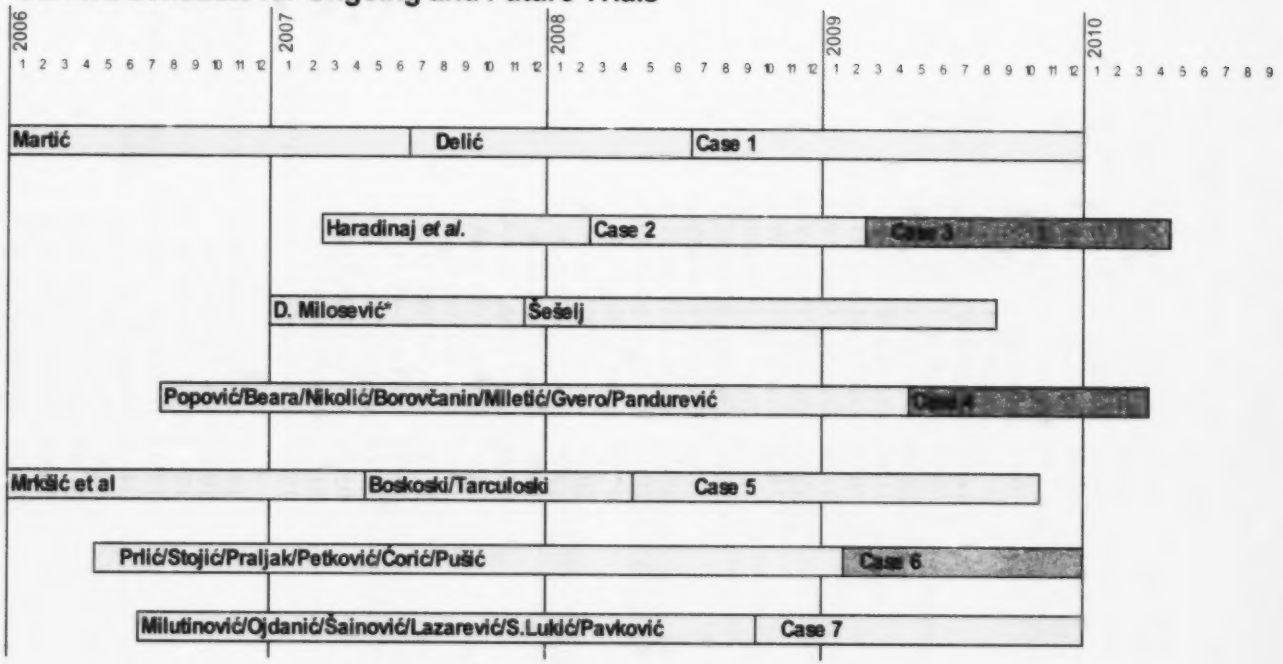
Enclosure VIII

MOTIONS disposed of as of 16 MAY 2007
(with date of disposition)

ICTR		ICTY	
31/05	*Bizimungu* ICTR-99-50-Ar93b	25/05	*Blaškić* IT-95-14-R (*confidential*)
10/07	*Karemera et al* ICTR-98-44	16/05	*Gotovina* IT-03-73-Ar73.1
18/07	*Karemera et al* ICTR-98-44	20/06	*Hadžihasanović* IT-01-45-A
29/08	*Karemera et al* ICTR-98-44	04/06	*Halilović* IT-01-48-A
05/10	*Karemera et al* ICTR-98-44	19/06	*Halilović* IT-01-48-A
05/10	*Karemera et al* ICTR-98-44	25/06	*Halilović* IT-01-48-A
05/10	*Karemera et al* ICTR-98-44	25/09	*Halilović* IT-01-48-A
11/10	*Karemera et al* ICTR-98-44	16/05	*Krajišnik* IT-00-39-A
20/07	*Muvunyi* ICTR-00-55A-A	25/05	*Krajišnik* IT-00-39-A
27/08	*Muvunyi* ICTR-00-55A-A	14/06	*Krajišnik* IT-00-39-A
16/05	*Nahimana et al* ICTR-99-52-A	20/06	*Krajišnik* IT-00-39-A
29/08	*Nahimana et al* ICTR-99-52-A	22/06	*Krajišnik* IT-00-39-A
30/08	*Nahimana et al* ICTR-99-52-A	11/07	*Krajišnik* IT-00-39-A
17/09	*Nahimana et al* ICTR-99-52-A	20/07	*Krajišnik* IT-00-39-A
04/10	*Nahimana et al* ICTR-99-52-A	31/07	*Krajišnik* IT-00-39-A
03/07	*Niyitegeka* ICTR-96-14-R	31/07	*Krajišnik* IT-00-39-A
24/08	*Niyitigeka* ICTR-96-14-R	23/08	*Krajišnik* IT-00-39-A
21/08	*Rutaganda* ICTR-96-3-R	22/08	*Krajišnik* IT-00-39-A
06/06	*Seromba* ICTR-01-66-A	11/09	*Krajišnik* IT-00-39-A
12/07	*Seromba* ICTR-01-66-A	11/09	*Krajišnik* IT-00-39-A
12/07	*Seromba* ICTR-01-66-A	27/09	*Krajišnik* IT-00-39-A
26/07	*Seromba* ICTR-01-66-A	18/10	*Krajišnik* IT-00-39-A
28/08	*Seromba* ICTR-01-66-A	07/06	*Limaj* IT-03-66-A
26/10	*Seromba* ICTR-01-66-A	20/06	*Limaj* IT-03-66-A
21/05	*Simba* ICTR-01-76-A *(confidential)*	18/09	*Limaj* IT-03-66-A
03/07	*Simba* ICTR-01-76-A	13/09	*Limaj* IT-03-66-A
13/07	*Simba* ICTR-01-76-A	06/06	*Lukić* IT-98-32/1-Ar65.1
18/07	*Simba* ICTR-01-76-A	24/07	*Martić* IT-95-11-A
29/08	*Simba* ICTR-01-76-A	10/09	*Martić* IT-95-11-A
10/10	*Simba* ICTR-01-76-A (*confidential*)	21/09	*Martić* IT-95-11-A
		21/09	*Martić* IT-95-11-A
		10/10	*Martić* IT-95-11-A
		05/10	*Martić* IT-95-11-A
		31/10	*Martić* IT-95-11-A
		18/05	*S. Milošević* IT-02-54-Ar108bis.3 (*confidential*)
		18/05	*Orić* IT-03-68-A
		10/07	*Orić* IT-03-68-A
		12/09	*Orić* IT-03-68-A
		17/05	*Trbić* IT-05-88/1-Ar73.1 *(confidential)*
		24/05	*Strugar* IT-01-42-A *(confidential)*
		13/07	*Strugar* IT-01-42-A
		31/08	*Strugar* IT-01-42-A
		31/08	*Strugar* IT-01-42-A
		03/10	*Strugar* IT-01-42-A
		03/10	*Strugar* IT-01-42-A
		24/07	*Zelenović* IT-96-23/2-A
		24/07	*Zelenović* IT-96-23/2-A
		06/09	*Zelenović* IT-96-23/2-A
		20/09	*Zelenović* IT-96-23/2-A
		23/10	*Zelenović* IT-96-23/2-A
		17/10	*Zelenović* IT-96-23/2-A

Enclosure IX
Current Schedule for Ongoing and Future Trials

as of 12 November 2007



Fugitives that must be programmed if the fugitives arrive:

(Karadžić)/(Mladić) - possible joinder with Case 5

(Župljanin) - possible joinder with Case 7

(Hadžić)

New Cases not previously listed:

[redacted]

[redacted]

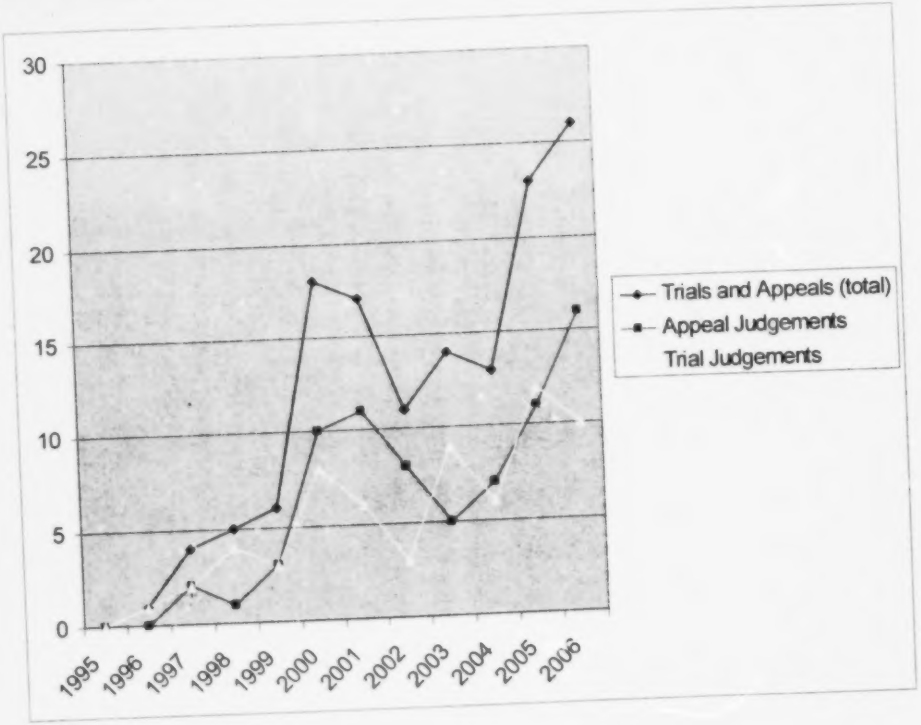
[redacted]

* Judgement writing phase

Enclosure X

Chambers Activity: Judgements

	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Trials and Appeals (total)	0	1	4	5	6	18	17	11	14	13	23	26	21
Appeal Judgements	0	0	2	1	3	10	11	8	5	7	11	16	13
Trial Judgements	0	1	2	4	3	8	6	3	9	6	12	10	8



2005

11 Appeal Judgements
- 9 Appeals from Judgement
- 2 Appeals from Referral

12 Trial Judgements
- 6 Judgements
- 6 Referral Judgements

2006

16 Appeal Judgements
- 7 Appeals from Judgement
- 5 Appeals from Referral
- 4 Reviews

10 Trial Judgements
- 6 Judgements
- 4 Referral Judgements

2007 (as of 12 November 2007)

13 Appeal Judgements
- 9 Appeals from Judgement
- 3 Appeals from Referral
- 1 Review

8 Trial Judgements
- 4 Trial Judgements
- 4 Referral Judgements